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COMMITTEE ON THE RIGHTS OF THE CHILD

Nineteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Kuwait

1. The Committee considered the initial report of Kuwait (CRC/C/8/Add.35) at its 487th to 490th meetings (CRC/C/SR.487-490), on 28 and 29 September 1998 and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by the State party of its initial report. It also takes note of the submission of written replies to the list of issues (CRC/C/Q/KUW/1). It further notes that while the report did not fully comply with the Committee's guidelines, the frank, self-critical and constructive dialogue contributed to a better understanding of the situation in the State party.

B. Positive aspects

3. The Committee notes the existence in Parliament of the Committee on Human Rights. It also notes the recent establishment within the Ministry of Justice of a unit dealing with human rights issues, including a mechanism for the consideration of individual complaints.

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* At the 505th meeting, held on 9 October 1998.

4. The Committee takes note of the fact that the Convention is self-executing within the State party and that its provisions may be invoked before the courts.

5. The Committee finds commendable the extensive social welfare services available to citizens of the State party at either no cost or at only a fraction of the real cost, including public services relating to education, health, social care and housing.

6. The Committee welcomes efforts by the State party to mainstream children with disabilities, or who have learning difficulties, within regular classes, while at the same time providing complementary courses catering for the special needs of those children.

7. The Committee welcomes the organization of an "Arab Day for Children" in the State party as a way for children better to understand their rights under the Convention.

C. Factors and difficulties impeding the implementation of the Convention

8. The Committee is aware that physical and psychological hardship resulting from the Gulf War still affects a substantial number of children and their parents. The Committee notes that there remain unresolved issues concerning family reunification since the end of the Gulf War and this situation is a serious constraint on the full implementation of the Convention.

D. Principal subjects of concern and Committee recommendations

9. The Committee notes with concern the declarations on articles 7 and 21 of the Convention made by the State party upon ratification of the Convention. In the light of the Vienna Declaration and Programme of Action (1993), the Committee encourages the State party to consider the possibility of reviewing the declarations.

10. While the Committee notes that the State party has developed a legislative framework, it is still concerned that the provisions and principles of the Convention are not fully reflected in law. The Committee recommends that the State party take all appropriate measures to engage, where necessary, in a process of law reform, for example by enacting a children's code to ensure full conformity with the Convention.

11. The Committee is concerned that the State party does not appear to have a comprehensive policy to promote and protect children's rights, and that it does not have a central evaluation and monitoring body for coordination between different ministries and between the central Government and local authorities. The Committee encourages the State party to adopt a national strategy for children, to establish a mechanism of coordination, evaluation and monitoring to implement policies and programmes for children in the light of the Convention. The Committee also recommends that the State party further its cooperation with the non-governmental organizations and to involve these organizations in such coordination and monitoring bodies.

12. In spite of the recent establishment within the Ministry of Justice of a unit dealing with human rights issues, including a mechanism for the consideration of individual complaints, the Committee expresses concern that there is insufficient awareness of this mechanism and how it can be used to register and address complaints from children concerning violations of their rights. The Committee suggests that the State party take appropriate measures to ensure that this mechanism is better known, including how it can be used by or on behalf of children to make complaints in the case of violations of their rights and to seek remedy for such violations.

13. The Committee is concerned that insufficient measures have been taken for the development of indicators and the systematic collection of disaggregated data on the areas covered by the Convention in relation to all groups of children in order to monitor and evaluate progress achieved and to assess the impact of policies adopted with respect to children. The Committee recommends that the system of data collection be strengthened with a view to incorporating all the areas covered by the Convention. Such a system of disaggregated data should include all children, with specific emphasis on vulnerable ones, including those who are victims of abuse or ill-treatment, children belonging to minority groups, including in particular the Bedoons, or to migrant families, children with no residence permit, children involved with the administration of juvenile justice, the girl child, children of single-parent families and children born out of wedlock, abandoned children, institutionalized children and those with disabilities. The Committee recommends that the State party consider seeking technical assistance from, inter alia, UNICEF in the development of such a data collection system.

14. The Committee notes with concern that professional groups, children and the public at large are not generally aware of the principles and provisions of the Convention. The Committee recommends that greater efforts be made to ensure that the provisions of the Convention are widely known and understood by adults and children alike. The Committee also recommends that systematic training and retraining programmes on the rights of the child be organized for professional groups working with and for children, such as judges, lawyers, law enforcement personnel, military officials and personnel, teachers, school administrators, health personnel, including psychologists, social workers, officials of central or local administrations, personnel of child-care institutions, the mass media. Systematic dissemination of the principles and provisions of the Convention to non-governmental organizations, the mass media and the public at large, including children themselves, should be enhanced. The Committee suggests that the State party incorporate the Convention in school and university curricula. In this regard, the Committee also suggests that the State party consider seeking technical assistance from, inter alia, the Office of the High Commissioner for Human Rights and UNICEF.

15. The Committee notes with concern that the legal age of criminal responsibility, at seven, is very low. Concern is also expressed at the low legal minimum age for marriage for girls, set at 15, while the minimum age for boys is set at 17. The Committee recommends raising the minimum legal age for criminal responsibility, in the light of the provisions and principles of the Convention and other relevant United Nations standards. In the light of the provisions and principles of the Convention, especially its articles 1, 2, 3,

6, 12 and 24, the Committee also recommends that the State party take all appropriate measures to raise the legal minimum age for marriage for girls to at least the same age as that set for boys.

16. The Committee is concerned that the welfare policies and practices prevailing in the State party do not adequately reflect the rights-based approach enshrined in the Convention. It also wishes to express its general concern that the State party does not appear to have fully taken into account the provisions of the Convention, especially its general principles, as reflected in its articles 2 (non-discrimination), 3 (best interests of the child), 6 (right to life, survival and development) and 12 (respect for the views of the child), in its legislation and in its administrative and judicial decisions, as well as in its policies and programmes relevant to children. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention, not only guide policy discussions and decision-making, but also are appropriately reflected in any legal revision, judicial and administrative decisions, and in the development and implementation of all projects and programmes which have an impact on children.

17. The Committee is concerned that neither the Constitution nor legislation fully conforms to article 2 of the Convention, and does not specifically prohibit discrimination on the basis of race, colour, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. The Committee is concerned at the existence of some laws, regulations or practices which are discriminatory towards non-Kuwaitis and girls, especially with regard to the right to education and inheritance. The Committee encourages the State party to review its legislation with a view to prohibiting discrimination on all grounds covered by article 2 of the Convention. Furthermore, in light of article 2 of the Convention, which requires State parties to ensure the implementation of all rights recognized by the Convention to each child within their jurisdiction, the Committee recommends the State party to take all appropriate measures to safeguard the rights of Bedoon children, migrant children, other non-citizens, and girls, especially with regard to access to education, health and other social services. Lastly, the Committee recommends that all appropriate measures be taken to guarantee that girls are systematically treated equally, especially with regard to the right to inheritance.

18. The Committee is concerned that the unusual demographic situation of the State party, in which only about 34 per cent of the population has Kuwaiti nationality, may have resulted in discrimination against non-Kuwaitis. The Committee is concerned at discrimination affecting children of the Bedoon community and young migrant workers. In the light of article 2 of the Convention, the Committee recommends that the State party take all appropriate measures to ensure that each child living within its jurisdiction is ensured without discrimination the full enjoyment of the rights set forth in the Convention. It also recommends that the State party consider ratifying the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

19. The Committee is concerned at the lack of awareness regarding the participatory rights of children. Concern is further expressed at the absence, in legal proceedings affecting a child, of a legal requirement that the views of the child be solicited. In the light of article 12 of the Convention, the Committee recommends that the State party take all appropriate measures to encourage participation of children in the family, in institutions, at school and in society. It also recommends that the relevant authorities ensure by all available means, including legislative means, that, according to his or her maturity, the views of children are an integral part of all decisions affecting them.

20. The Committee is further concerned that in the light of the State party's legislation regarding citizenship, nationality may only be obtained by a child from his/her Kuwaiti father. The Committee recommends that domestic legislation be amended to guarantee that the acquisition of Kuwaiti nationality be determined in light of the provisions and principles of the Convention, especially articles 2, 3 and 7.

21. The Committee expresses its concern about the lack of a specific prohibition in domestic legislation of the use of corporal punishment. The Committee recommends that the State party take all appropriate measures, including of a legislative nature, to prohibit corporal punishment in schools, in the family and other institutions, and in society at large. The Committee also suggests that awareness-raising campaigns be conducted to ensure that alternative forms of discipline are administered in a manner consistent with the child's human dignity and in conformity with the Convention, in the light of article 28.2 of the Convention.

22. The Committee is concerned at the insufficient awareness of and lack of information on domestic violence, ill-treatment and abuse, including sexual abuse, both within and outside the family, at the insufficient legal protection measures and insufficient resources, as well as at the lack of adequately trained personnel to prevent and combat such abuse. In the light of article 19 of the Convention, the Committee recommends that the State party undertake multidisciplinary studies on the nature and scope of ill-treatment and abuse, including sexual abuse, with a view to adopting adequate measures and policies, in order to, inter alia, change traditional attitudes. It also recommends that a special complaint mechanism be established for children to report such ill-treatment, domestic violence and abuse. It further recommends that cases of abuse and ill-treatment of children, including sexual abuse within the family, be properly investigated, sanctions applied to perpetrators and publicity given to decisions taken in such cases, due regard being given to protecting the right to privacy of the child. It is also recommended that consideration be given to adopting child-friendly rules for the provision of evidence in such proceedings. Further measures should be taken with a view to ensuring the provision of support services to children in legal proceedings, the physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention, and the prevention of criminalization and stigmatization of victims.

23. The Committee is concerned at the potential for stigmatization of a woman or couple who decide to keep a child born out of wedlock, and at the impact of this stigmatization on the enjoyment by such children of their rights. The Committee recommends that the State party take all appropriate measures to create an adequate framework that would facilitate the choice of a woman or couple to whom a child is born out of wedlock to keep and raise the child.

24. The Committee is concerned that the State party does not have a procedural requirement for periodic review and systematic monitoring when children are placed in alternative care, such as in a children's home, a guest house or any other similar institution. The Committee recommends that special attention be given to children living in institutional care, including children born out of wedlock. Alternatives to institutional care, such as foster care, should be developed and an appropriate mechanism for the systematic monitoring and review of placement in institutional care should be established, in the light of article 25 of the Convention.

25. The Committee is concerned at the recent increase in the number of children living and/or working on the streets, especially children of the Bedoon community. It recommends that all appropriate measures be taken to provide access to school to all children and prevent and combat school drop-out. It also recommends the development of vocational training projects, as well as of adequate social programmes.

26. The Committee is concerned at the high level of malnutrition among children in the State party, mainly due to poor nutrition. The Committee recommends that the State party take all appropriate measures, such as awareness-raising campaigns in and outside schools and counseling, to sensitize adults, especially parents and domestic servants, and children alike to the importance of quality nutrition.

27. Regarding adolescent health, the Committee is concerned at the high mortality rate among male adolescents, due to external causes and accidents. It is also concerned at the lack of comprehensive data and information on the health status of adolescents in general, especially with regard to drug and substance abuse, sexually transmitted diseases and HIV/AIDS, teenage pregnancy, violence and suicide among young people, and by the lack of treatment and rehabilitation services. The Committee suggests that a comprehensive and multi-disciplinary study be undertaken on adolescent health problems, with data disaggregated by age and gender, to serve as the basis for developing and promoting adolescent health policies. The Committee also recommends that further efforts be undertaken to develop youth-friendly care, counseling and rehabilitation facilities for adolescents.

28. In the light of the provisions and principles of the Convention, especially its articles 2, 3, 6, 12 and 24.3, the Committee is concerned at the practice of early marriage. It recommends that the State party undertake all appropriate measures, including legal measures, awareness-raising campaigns with a view to changing attitudes, counseling and reproductive health education, to prevent and combat this traditional practice which is harmful to the health and well-being of girls and the development of the family.

29. The Committee is concerned that the State party does not have specific domestic legislation for determining the status of and protecting refugees, including children, and is currently not a party to any of the main treaties on statelessness or refugees. The Committee recommends that the State party review its domestic legislation with a view to including provisions for determining the status of and protecting refugees, including children, especially with regard to access to education, health and other social services. The Committee also recommends that the State party consider ratifying the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, as well as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

30. The Committee recognizes that the State party is still recovering from the effects of the Gulf War and that landmines pose a continuing threat to the population and have already given rise to numerous casualties, including children. The Committee stresses the importance of educating parents, children and the general public about the dangers of landmines. The Committee recommends that the State party review the situation with regard to landmines within the framework of technical assistance, including from United Nations agencies. The Committee further suggests that the State party become a party to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and of Their Destruction (1997).

31. The Committee is concerned at the absence of data, information and comprehensive research on the issue of sexual abuse and exploitation of children. In the light of article 34 and other related articles of the Convention, the Committee recommends that the State party reinforce its legislative framework to protect children fully from all forms of sexual abuse or exploitation, including within the family. It also recommends that the State party undertake studies with a view to designing and implementing appropriate policies and measures, including rehabilitation measures, to combat this phenomenon. The Committee urges the State party to continue implementing the recommendations formulated in the Agenda for Action adopted at the 1996 Stockholm World Congress against Commercial Sexual Exploitation of Children.

32. The Committee is concerned at the situation of the administration of juvenile justice and in particular its full compatibility with the Convention, as well as other relevant United Nations standards. The Committee recommends that the State party consider taking additional steps to reform the system of juvenile justice in the spirit of the Convention, in particular articles 37, 39 and 40, and of other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. Particular attention should be paid to considering deprivation of liberty only as a measure of last resort and for the shortest possible period of time, to the protection of all the rights of children deprived of their liberty and, when appropriate, to encouraging alternatives to the processing of cases through the regular penal system. Training programmes on relevant international standards should be organized for all those professionals involved with the system of juvenile justice. The Committee suggests that the State party

consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Technical Advice and Assistance in Juvenile Justice.

33. The Committee recommends that, in the light of article 44, paragraph 6, of the Convention, the initial report and these concluding observations be made widely available to the public at large, including non-governmental organizations, and that consideration be given to publishing the report, along with the relevant summary records, the list of questions and written answers thereto, and the concluding observations of the Committee. It is suggested that such a document could be widely distributed in order to generate debate on and awareness of the Convention, as well as to serve as a reference for the implementation of the Convention by the State party.